

Remarks

The official action indicates that the above-identified application has a filing date of August 15, 2000. That is incorrect. Enclosed herewith is a copy of a decision dated June 29, 2001 by which the above-identified application was granted the filing date of August 14, 2000. Please update the USPTO records to reflect the correct filing date which has been accorded this application.

Turning to the merits of the official action, the Examiner objected to the use of reference numeral 209 twice in the application and in the drawings. As the Examiner will note by reference to the specification amendments and the drawing amendments made above, this matter has been addressed by amending the specification and submitting a new amended version of Figure 2. It is believed, with the entry of these amendments, that the objection set forth in paragraphs 1 and 2 of the official action have now been attended to.

The Examiner objected to a number of the claims because the reference numerals were allegedly not consistent with that which is shown in the drawings. As the Examiner will note by reference to the claim amendments made above, all of the reference numerals have been removed, thereby obviating this grounds for objection. Also, other minor amendments have been made to the claims. For example, the word "steps" has been deleted from several claims and the word "a" before memory means and redirection means has been deleted in two different instances thereof to improve the way claim 14 reads.

The Examiner rejected claims 16-19 under 35 U.S.C. 112, second paragraph, as allegedly being unclear. The Examiner's difficulty was with respect to the reference to "said encryption means" in claim 16. Claim 16 has been amended to refer instead to "an" encryption means. With the entry of this amendment, it is believed that this grounds for rejection will now fall away.

The Examiner also rejected claims 20-25 under 35 U.S.C. 112, second paragraph, as

allegedly being unclear due to the use of the term "ones" in claim 20. The Examiner asserts that the term "ones" is a relative term which allegedly renders the claim indefinite. First, it is submitted that the term "ones" is not a relative term. It is understood that a relative term is a term like "small" or "large" and, moreover, it is noted that not all relative terms are necessarily unclear. It depends upon the context in which the term is used. Thus, even if the term "ones" in claim 20 were a relative term, the fact that it is a relative term would not necessarily render the claim indefinite.

The Examiner asserts that the term "ones" is not defined by the claim. Of course, the Examiner could make the same assertion with respect to each and every word used in the claims and it is submitted that the Examiner's objection is non-statutory since it is not believed that 35 U.S.C. 112 requires that a definition be provided for each word used in a patent claim.

Furthermore, it is noted, with all due respect to the Examiner, that the term "ones" appears rather frequently in US patent claims. The Examiner is respectfully requested to do a search at the USPTO web site wherein the words used in claims can be searched. Please do a search for the use of the word "ones" in patent claims. If the search engine at the USPTO can be believed, over 87,000 patents have issued since 1976 with the word "ones" found in the claims. Is the Patent Office now taking the position that the word "ones" in patent claims has all of a sudden become unclear, thereby rendering those over 87,000 patents invalid? It is believed that that is not the Examiner's intent and, moreover, it is submitted that there is nothing whatsoever inherently improper in using the term "ones" in patent claims. The Examiner is respectfully requested to reconsider the rejection and to withdraw it.

Turning now to the prior art rejections made by the Examiner. The Examiner rejects claims 1-17, 26 and 27 under 35 U.S.C. 102(e) as allegedly being fully anticipated by US Patent No. 6,363,477 to Fletcher et al. This grounds for rejection is respectfully traversed.

Turning initially to claim 1, it is not believed that Fletcher meets each and every

limitation of claim 1. As such, the rejection under 35 U.S.C. 102(e) must fail.

Fletcher describes a network monitoring facility that has the ability to monitor encrypted packets. The system described includes encryption services that are clearly stated to reside in the kernel space (see element 440 of Fig 4). In this respect the system described appears to correspond to the prior art described in Applicant's specification in relation Applicant's Fig 2. Fletcher also describes the generation of "encryption recognition characteristics" that are stored in a buffer that is shared between user space and kernel space. These "encryption recognition characteristics" seem essentially to be a digital signature of some kind that can then be compared with subsequently received encrypted packets to establish a correlation.

This operation could involve encryption processes being carried out on data stored accessible to the user space processes, although this is not totally clear. However, and in any case, Fletcher does not describe decryption processes being carried out in the user space because these are not necessary for the use of digital signature to correlate the packets.

Claim 1 recites, *inter alia*, "decrypting said encrypted data stored in said second memory area." Where does Fletcher teach this limitation? The passages cited by the Examiner at the last line on page 4 of the office action do not seem to be pertinent, as the deciphered data packets observed by the layered service provider 430 appear to be deciphered in the kernel layer 330 as opposed to "in the second memory area" as claimed.

As regards claim 6, where does Fletcher describe the "encrypting said data stored in said second memory area" and "writing said encrypted data from said second memory area to said first memory area" as claimed? Note that Fletcher appears to teach that deciphering is done on the kernel layer 330 as opposed to "in the second memory area" as claimed by claim 6.

It is believed that Fletcher describes taking decrypted data, moving it to kernel space and encrypting it in kernel space for transmission as per the admitted prior art. In

parallel, the decrypted data is encrypted in user space to form a digital signature and the digital signature is stored in user space. When an encrypted packet is subsequently received it is stored in user space and compared with the digital signature previously stored there.

Claim 13 recites "processing said data packet according to a decryption algorithm in said second memory area" thereby distinguishing claim 13 from Fletcher.

As regards apparatus claim 14, it refers to "transmitting digital data across a communications network..." and comprises "encryption means logically located within said second memory area...for encrypting said digital data." The digital data that is encrypted by the encryption means is the digital data that is sent across the network and claim 14 has been amended to make this point clear. In Fletcher, the digital data that is encrypted by a user space process (if indeed Fletcher discloses this, which is not certain) is not sent across the network. Thus, the words "for transmission across the communications network" added to the end of claim 14 render it patentable over Fletcher.

Claim 15 recites "decryption means logically located within said second memory area for decrypting data stored in said second memory area" thereby distinguishing it from Fletcher as well.

Reconsideration of this application in view of the foregoing comments and amendments is respectfully requested

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 12-0415. In particular, if this response is not timely filed, then the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136 (a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 12-0415.

I hereby certify that this correspondence is being deposited with the United States Post Office with sufficient postage as first class mail in an envelope addressed to Commissioner for Patents

POB 1450, Alexandria, VA 22313-1450 on

June 21, 2004

(Date of Deposit)

Corinda Humphrey


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(Signature)

June 21, 2004

(Date)

Respectfully submitted,


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Enclosure: Replacement Drawing Sheet

extension of time

filing date decision